

SENATE BILL No. 409

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-11-1-9; IC 5-22-1-2; IC 8-1.

Synopsis: IURC and OUCC functions. Provides that the utility regulatory commission (IURC) and the office of utility consumer counselor (OUCC): (1) are independent agencies in the executive branch of state government; (2) exercise essential public functions; and (3) are not subject to oversight by the office of management and budget, the budget agency, or the state personnel department. Specifies that the expenses of the IURC and the OUCC are funded by regulated utilities doing business in Indiana. Provides that the funds, accounts, and financial affairs of the IURC and the OUCC shall be examined biennially by the state board of accounts. Provides that the IURC and the OUCC are subject to: (1) the rules and jurisdiction of the state ethics commission; (2) the open door law; and (3) the public records law. Provides that the IURC and the OUCC are not subject to state laws governing public purchasing. Allows the IURC and the OUCC to enter into contracts without obtaining the approval of: (1) the commissioner of the department of administration; (2) the director of the budget agency; or (3) the attorney general. Allows the IURC and the OUCC to employ and fix the compensation of necessary professionals without the approval of the governor and the budget agency.

Effective: July 1, 2007.

Hershman

January 11, 2007, read first time and referred to Committee on Utilities & Regulatory Affairs.

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Introduced

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

SENATE BILL No. 409

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-11-1-9, AS AMENDED BY P.L.4-2005,
2 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2007]: Sec. 9. (a) The state examiner, personally or through
4 the deputy examiners, field examiners, or private examiners, shall
5 examine all accounts and all financial affairs of every public office and
6 officer, state office, state institution, and entity.

7 (b) An examination of an entity deriving:

8 (1) less than fifty percent (50%); or

9 (2) at least fifty percent (50%) but less than one hundred thousand
10 dollars (\$100,000) if the entity is organized as a not-for-profit
11 corporation;

12 of its disbursements during the period of time subject to an
13 examination from appropriations, public funds, taxes, and other sources
14 of public expense shall be limited to matters relevant to the use of the
15 public money received by the entity.

16 (c) The examination of an entity described in subsection (b) may be
17 waived or deferred by the state examiner if the state examiner

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determines in writing that all disbursements of public money during the period subject to examination were made for the purposes for which the money was received. However, the:

(1) Indiana economic development corporation created by IC 5-28-3 and the corporation's funds, accounts, and financial affairs;

(2) **Indiana utility regulatory commission created by IC 8-1-1-2 and the commission's funds, accounts, and financial affairs; and**

(3) **office of utility consumer counselor created by IC 8-1-1.1-2 and the office's funds, accounts, and financial affairs;**

shall be examined biennially by the state board of accounts.

(d) On every examination under this section, inquiry shall be made as to the following:

(1) The financial condition and resources of each municipality, office, institution, or entity.

(2) Whether the laws of the state and the uniform compliance guidelines of the state board of accounts established under section 24 of this chapter have been complied with.

(3) The methods and accuracy of the accounts and reports of the person examined.

The examinations shall be made without notice.

(e) If during an examination of a state office under this chapter the examiner encounters an inefficiency in the operation of the state office, the examiner may comment on the inefficiency in the examiner's report.

(f) The state examiner, deputy examiners, any field examiner, or any private examiner, when engaged in making any examination or when engaged in any official duty devolved upon them by the state examiner, is entitled to do the following:

(1) Enter into any state, county, city, township, or other public office in this state, or any entity, agency, or instrumentality, and examine any books, papers, documents, or electronically stored information for the purpose of making an examination.

(2) Have access, in the presence of the custodian or the custodian's deputy, to the cash drawers and cash in the custody of the officer.

(3) During business hours, examine the public accounts in any depository that has public funds in its custody pursuant to the laws of this state.

(g) The state examiner, deputy examiner, or any field examiner, when engaged in making any examination authorized by law, may issue subpoenas for witnesses to appear before the examiner in person or to

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1 produce books, papers, or other records (including records stored in
 2 electronic data processing systems) for inspection and examination.
 3 The state examiner, deputy examiner, and any field examiner may
 4 administer oaths and examine witnesses under oath orally or by
 5 interrogatories concerning the matters under investigation and
 6 examination. Under the authority of the state examiner, the oral
 7 examinations may be transcribed with the reasonable expense paid by
 8 the examined person in the same manner as the compensation of the
 9 field examiner is paid. The subpoenas shall be served by any person
 10 authorized to serve civil process from any court in this state. If a
 11 witness duly subpoenaed refuses to attend, refuses to produce
 12 information required in the subpoena, or attends and refuses to be
 13 sworn or affirmed, or to testify when called upon to do so, the examiner
 14 may apply to the circuit court having jurisdiction of the witness for the
 15 enforcement of attendance and answers to questions as provided by the
 16 law governing the taking of depositions.

17 SECTION 2. IC 5-22-1-2, AS AMENDED BY P.L.184-2005,
 18 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2007]: Sec. 2. Except as provided in this article, this article
 20 does not apply to the following:

- 21 (1) The commission for higher education.
- 22 (2) A state educational institution. However, IC 5-22-15 applies
 23 to a state educational institution.
- 24 (3) Military officers and military and armory boards of the state.
- 25 (4) An entity established by the general assembly as a body
 26 corporate and politic. However, IC 5-22-15 applies to a body
 27 corporate and politic.
- 28 (5) A local hospital authority under IC 5-1-4.
- 29 (6) A municipally owned utility under IC 8-1-11.1 or IC 8-1.5.
- 30 (7) Hospitals established and operated under IC 16-22-1 through
 31 IC 16-22-5, IC 16-22-8, IC 16-23-1, or IC 16-24-1.
- 32 (8) A library board under IC 36-12-3-16(b).
- 33 (9) A local housing authority under IC 36-7-18.
- 34 (10) Tax exempt Indiana nonprofit corporations leasing and
 35 operating a city market owned by a political subdivision.
- 36 (11) A person paying for a purchase or lease with funds other than
 37 public funds.
- 38 (12) A person that has entered into an agreement with a
 39 governmental body under IC 5-23.
- 40 (13) A municipality for the operation of municipal facilities used
 41 for the collection, treatment, purification, and disposal in a
 42 sanitary manner of liquid and solid waste, sewage, night soil, and

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1 industrial waste.

2 **(14) The Indiana utility regulatory commission created by**
 3 **IC 8-1-1-2.**

4 **(15) The office of utility consumer counselor created by**
 5 **IC 8-1-1.1-2.**

6 SECTION 3. IC 8-1-1-2 IS AMENDED TO READ AS FOLLOWS
 7 [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) There is created the Indiana
 8 utility regulatory commission which shall consist of five (5) members,
 9 at least one (1) of whom shall be an attorney qualified to practice law
 10 before the supreme court of Indiana and not more than three (3) of
 11 whom belong to the same political party.

12 (b) The members of the commission and all vacancies occurring
 13 therein shall be appointed by the governor from among persons
 14 nominated by the nominating committee in accordance with the
 15 provisions of IC 8-1-1.5.

16 (c) The members may be removed at any time by the governor for
 17 cause.

18 (d) The governor shall appoint one (1) member as chairman.

19 (e) The members of the commission shall be appointed for a term of
 20 four (4) years, except when a member is appointed to fill a vacancy, in
 21 which case such appointment shall be for such unexpired term only. All
 22 members of said commission shall serve as such until their successors
 23 are duly appointed and qualified, and while so serving shall devote full
 24 time to the duties of the commission and shall not be actively engaged
 25 in any other occupation, profession, or business that constitutes a
 26 conflict of interest or otherwise interferes with carrying out their duties
 27 as commissioners.

28 (f) A member of the commission or any person appointed to any
 29 position or employed in any capacity to serve the commission, may not
 30 have any official or professional relationship or connection with, or
 31 hold any stock or securities or have any pecuniary interest in any public
 32 utility operating in Indiana.

33 (g) Each member appointed to the Indiana utility regulatory
 34 commission shall take and subscribe to an oath in writing that he will
 35 faithfully perform the duties of his office, and support and defend to the
 36 best of his ability the Constitution and laws of the state of Indiana and
 37 of the United States of America, and such oath shall be filed with the
 38 secretary of state.

39 (h) The chairman of the commission shall:

40 **(1) assign cases to the various members of the commission or to**
 41 **administrative law judges for hearings; and**

42 **(2) serve as agency head with respect to:**

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- 1 (A) commission employees and appointees; and
 2 (B) all matters related to the administration and operation
 3 of the commission.

4 SECTION 4. IC 8-1-1-2.1 IS ADDED TO THE INDIANA CODE
 5 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 6 1, 2007]: Sec. 2.1. (a) The commission:

- 7 (1) is an independent agency in the executive branch of state
 8 government; and
 9 (2) exercises essential public functions.

10 (b) The commission shall carry out and determine all functions
 11 of the state concerning the regulation of utilities subject to the
 12 commission's jurisdiction. The commission shall exercise the duties
 13 described in this subsection in accordance with:

- 14 (1) state law; and
 15 (2) any applicable authority delegated to the commission by
 16 federal law.

17 (c) The expenses of the commission in administering this article
 18 shall be paid by:

- 19 (1) public utilities under IC 8-1-6;
 20 (2) municipal utilities under IC 8-1-2-70; and
 21 (3) municipalities under IC 8-1-2-85.

22 (d) Subject to subsection (e), the commission's:

- 23 (1) regulatory functions described in subsection (b); and
 24 (2) budgeting, accounting, and spending functions;

25 are not subject to oversight by the office of management and
 26 budget (notwithstanding IC 4-3-22-14), the budget agency
 27 (notwithstanding IC 4-12-1), or the state personnel department
 28 (notwithstanding IC 4-15-1.8).

29 (e) The commission's funds, accounts, and financial affairs shall
 30 be examined biennially by the state board of accounts under
 31 IC 5-11-1-9(c).

32 SECTION 5. IC 8-1-1-3 IS AMENDED TO READ AS FOLLOWS
 33 [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) The members of the
 34 commission shall meet and organize the commission. The commission
 35 may, subject to the approval of the governor, appoint a secretary of the
 36 commission.

37 (b) The salaries of the members and secretary of the commission
 38 shall be fixed by the governor; ~~subject to the approval of the budget~~
 39 ~~agency~~; however, the salaries of the chairman and the members shall
 40 not be less than the following annual minimum amounts:

- 41 (1) For the chairman, sixty-five thousand dollars (\$65,000).
 42 (2) For the members, sixty thousand dollars (\$60,000) each.

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(c) The commission may appoint one (1) or more administrative law judges who shall be responsible to and serve at the will and pleasure of the commission. While serving, the administrative law judges shall devote full time to the duties of the commission and shall not be actively engaged in any other occupation, profession, or business that constitutes a conflict of interest or otherwise interferes with carrying out their duties as administrative law judges. The salary of each administrative law judge shall be fixed by the commission ~~subject to the approval of the budget agency~~ but may not be less than the following annual amounts:

(1) For the chief administrative law judge, forty-five thousand dollars (\$45,000).

(2) For all other administrative law judges, forty thousand dollars (\$40,000).

(d) A majority of the commission members shall constitute a quorum.

(e) On order of the commission any one (1) member of the commission, or an administrative law judge, may conduct a hearing, or investigation, and take evidence therein, and report the same to the commission for its consideration and action; however, a hearing concerning a request for a general increase in the basic rates and charges of a utility in an amount exceeding twenty million dollars (\$20,000,000) may only be conducted by one (1) or more commission members.

(f) Each member of the commission shall give bond in the sum of ten thousand dollars (\$10,000) for the faithful performance of ~~his~~ **the member's** duties. Such bond shall be filed with the secretary of state.

(g) The commission shall formulate rules necessary or appropriate to carry out the provisions of this chapter, and shall perform the duties imposed by law upon ~~them~~ **the commission**.

(h) The commission may:

(1) employ ~~with the approval of the governor and the state budget agency, and fix the salaries for~~ sufficient professional staff, including ~~but not limited to~~ specialists, technicians, and analysts, who are:

(A) necessary to carry out the efficient operation of the commission, as determined by the commission; and

(B) exempt from the job classifications and compensation schedules established under IC 4-15; and

(2) purchase, lease, or otherwise acquire for its internal use sufficient technical equipment necessary for the commission to carry out its statutory duties; **and**

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(3) notwithstanding IC 4-13-2-14.1, enter into contracts without the approval of:

- (A) the commissioner of the Indiana department of administration;
- (B) the director of the budget agency; or
- (C) the attorney general.

SECTION 6. IC 8-1-1-3.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 3.1. (a) The commission and all appointees and employees of the commission are:**

- (1) under the jurisdiction of; and
- (2) subject to the rules adopted by; the state ethics commission.

(b) The commission may adopt additional ethics rules and requirements that:

- (1) apply to the commission and all appointees and employees of the commission;
- (2) are not less stringent than the rules adopted by the state ethics commission; and
- (3) are consistent with state law.

SECTION 7. IC 8-1-1-4.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 4.1.** Any expense incurred by the commission ~~either upon complaint against any public utility, or upon petition of any public utility~~ shall be charged and paid in the manner provided in:

- (1) IC 8-1-2-70;
- (2) **IC 8-1-2-85**; or
- (3) IC 8-1-6;

whichever is appropriate under the circumstances.

SECTION 8. IC 8-1-1-5.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 5.1. Except as otherwise provided by law, the commission is subject to the following:**

- (1) **IC 5-14-1.5.**
- (2) **IC 5-14-3.**

SECTION 9. IC 8-1-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 11.** The commission is authorized to employ such counsel or attorneys, engineers, administrative law judges, experts, clerks, accountants and other assistants as it may deem necessary, at such rates of compensation as it may determine. ~~upon subject, however, to the approval of the governor.~~

SECTION 10. IC 8-1-1.1-1 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. As used in this chapter:

"Council" means the advisory council to the office of utility consumer counselor created under section 7 of this chapter.

"Counselor" ~~means~~ **refers to:**

(1) the consumer counselor ~~established~~ **appointed** under section 2 of this chapter; **or**

(2) **the office of utility consumer counselor created by section 2 of this chapter;**

as the context requires.

"Deputy consumer counselor" means the deputy consumer counselor for Washington affairs that may be established under section 9.1 of this chapter.

"Office" refers to the office of utility consumer counselor created by section 2 of this chapter.

"Utility" means any public utility, municipally owned utility or subscriber owned utility under the jurisdiction of the commission.

SECTION 11. IC 8-1-1.1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) There is created the office of utility consumer counselor. The office shall be administered by the consumer counselor appointed under section 3 of this chapter.

(b) **The office:**

(1) **is an independent agency in the executive branch of state government; and**

(2) **exercises essential public functions.**

(c) **The office shall have charge of the interests of ratepayers, consumers, and the public arising from the regulation of utilities, motor carriers, and railroads in Indiana. The office shall exercise the duties set forth in this chapter in accordance with:**

(1) **state law; and**

(2) **any applicable authority delegated to the office by federal law.**

(d) **The expenses of the office in administering this article shall be paid by:**

(1) **public utilities under IC 8-1-6;**

(2) **municipal utilities under IC 8-1-2-70; and**

(3) **municipalities under IC 8-1-2-85.**

(e) **Subject to subsection (f), the office's:**

(1) **functions and duties described in subsection (c); and**

(2) **budgeting, accounting, and spending functions;**

are not subject to oversight by the office of management and

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1 budget (notwithstanding IC 4-3-22-14), the budget agency
2 (notwithstanding IC 4-12-1), or the state personnel department
3 (notwithstanding IC 4-15-1.8).

4 (f) The office's funds, accounts, and financial affairs shall be
5 examined biennially by the state board of accounts under
6 IC 5-11-1-9(c).

7 SECTION 12. IC 8-1-1.1-3.1 IS ADDED TO THE INDIANA
8 CODE AS A NEW SECTION TO READ AS FOLLOWS
9 [EFFECTIVE JULY 1, 2007]: **Sec. 3.1. (a) The office and all**
10 **appointees and employees of the office are:**

11 (1) under the jurisdiction of; and

12 (2) subject to the rules adopted by;
13 the state ethics commission.

14 (b) The office may adopt additional ethics rules and
15 requirements that:

16 (1) apply to the consumer counselor and all appointees and
17 employees of the office;

18 (2) are not less stringent than the rules adopted by the state
19 ethics commission; and

20 (3) are consistent with state law.

21 SECTION 13. IC 8-1-1.1-3.2 IS ADDED TO THE INDIANA
22 CODE AS A NEW SECTION TO READ AS FOLLOWS
23 [EFFECTIVE JULY 1, 2007]: **Sec. 3.2. Except as otherwise provided**
24 **by law, the office is subject to the following:**

25 (1) IC 5-14-1.5.

26 (2) IC 5-14-3.

27 SECTION 14. IC 8-1-1.1-6.1 IS AMENDED TO READ AS
28 FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 6.1. (a) The consumer**
29 **counselor may employ and fix the compensation of** ~~with the approval~~
30 ~~of the governor and the budget agency;~~ accountants, utility economists,
31 engineers, attorneys, stenographers, or other assistance necessary to
32 carry out the duties of the office. The compensation of the consumer
33 counselor and the counselor's staff shall be paid from an appropriation
34 made for that purpose by the general assembly or ~~with the approval of~~
35 ~~the governor and the budget agency;~~ from a contingency fund
36 established under IC 8-1-6-1.

37 (b) The consumer counselor may make use of engineers, experts,
38 and accountants employed by the commission or the Indiana
39 department of transportation and direct them to make appraisals and
40 audits in the performance of the consumer counselor's duties under this
41 chapter, ~~and IC 8-1-1 and IC 8-1-2. IC 8-1, and IC 8-1-1.5.~~ In so
42 doing, the consumer counselor shall have access to the records and

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files of the commission or the Indiana department of transportation.

(c) The consumer counselor may employ ~~with the approval of the governor and the budget agency~~; additional stenographers, examiners, experts, engineers, assistant counselors, accountants, and consulting firms with expertise in utility, motor carrier, or railroad economics or management or both, at salaries and compensation and for a length of time as ~~the governor and the budget agency may approve~~ **necessary** for a particular case or investigation. The compensation for the additional personnel together with the cost of transportation, hotel, telegram, and telephone bills while traveling on public business shall be paid from the expert witness fee account or ~~with the approval of the governor and the budget agency~~; from a contingency fund established under IC 8-1-6-1 on warrants drawn by the auditor of state, sworn to by the parties who incurred the expenses.

(d) Expenses incurred by the regular staff of the office and approved by the consumer counselor, or an expense incurred by the commission or the Indiana department of transportation under subsection (b), shall be charged and paid in the manner provided in IC 8-1-2-70 or IC 8-1-6, whichever is appropriate under the circumstances.

(e) Nothing in this chapter may be construed to prevent a party interested in a proceeding, suit, or action from appearing in person or from being represented by counsel.

(f) Persons hired by the consumer counselor as provided by this section are exempt from the job classifications and compensation schedules established under IC 4-15.

(g) The consumer counselor may purchase, lease, or otherwise acquire sufficient technical equipment necessary for the consumer counselor to carry out the consumer counselor's statutory duties.

(h) Notwithstanding IC 4-13-2-14.1, the consumer counselor may enter into contracts without the approval of:

- (1) the commissioner of the Indiana department of administration;**
- (2) the director of the budget agency; or**
- (3) the attorney general.**

SECTION 15. IC 8-1-1.1-9.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9.1. (a) The governor may appoint a deputy consumer counselor for Washington affairs. The utility consumer counselor may advise the governor in the appointment of a deputy consumer counselor for Washington affairs.

(b) The deputy consumer counselor shall serve for a term of four (4) years at a salary to be fixed by the governor. The deputy shall serve at the pleasure of the governor. The deputy consumer counselor shall be

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1 a practicing attorney, and qualified by knowledge and experience to
 2 practice in utility regulatory agency proceedings. The deputy consumer
 3 counselor shall apply full efforts to the duties of the office and may not
 4 be actively engaged in any other occupation, practice, profession, or
 5 business.

6 (c) The deputy consumer counselor may appear on behalf of
 7 ratepayers, consumers, and the public in:

8 (1) hearings before the federal energy regulatory commission;

9 (2) appeals from the orders of the federal energy regulatory
 10 commission; and

11 (3) all other proceedings, including proceedings before federal
 12 agencies, and suits and actions in which the subject matter of the
 13 action affects the consumers of a utility, motor carrier, or railroad
 14 doing business in Indiana.

15 (d) The deputy consumer counselor may establish and maintain an
 16 office in Washington, D.C. The deputy consumer counselor may, with
 17 the approval of the consumer counselor, ~~the governor, and the budget~~
 18 ~~agency~~ employ and fix the compensation of accountants, utility
 19 economists, engineers, attorneys, stenographers, or other ~~assistance~~
 20 **professionals as** necessary to carry out the duties of the office of the
 21 deputy consumer counselor. The compensation of the deputy consumer
 22 counselor and the staff shall be paid from an appropriation made for
 23 that purpose by the general assembly or ~~with the approval of the~~
 24 ~~governor and the budget agency~~, from the contingency fund established
 25 under IC 8-1-6-1.

26 (e) The deputy consumer counselor may employ, with the approval
 27 of the consumer counselor, ~~the governor, and the budget agency~~,
 28 additional stenographers, examiners, experts, engineers, assistant
 29 counselors, accountants, and consulting firms with expertise in utility,
 30 motor carrier, or railroad economics or management or both, at salaries
 31 and compensation and for a length of time as the consumer counselor
 32 ~~the governor, and the budget agency~~ may approve for a particular case
 33 or investigation. The compensation for additional personnel together
 34 with the cost of transportation, hotel, telegram, and telephone bills
 35 while traveling on public business shall be paid from the expert witness
 36 fee account or ~~with the approval of the governor and the budget agency~~,
 37 from the contingency fund established under IC 8-1-6-1 on warrants
 38 drawn by the auditor of state, sworn to by the parties who incurred the
 39 expenses.

40 (f) Any expenses incurred by the regular staff of the office of the
 41 deputy consumer counselor and approved by the deputy consumer
 42 counselor shall be charged and paid from the contingency fund

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1 established under IC 8-1-6-1.

2 SECTION 16. IC 8-1-2-70 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 70. In its order upon
4 any investigation made under the provisions of this chapter, either upon
5 complaint against any municipal utility, or upon the petition of any
6 such municipal utility, or upon the initiation of the commission, the
7 commission shall ascertain and declare the expenses incurred by it
8 upon such investigation, and the municipal utility affected thereby shall
9 pay into the treasury of the state, **to be deposited in the commission**
10 **public utility fund account established under IC 8-1-6**, the amount
11 of the expenses, so ascertained and declared, within a time to be fixed
12 in the order, not exceeding twenty (20) days from the date thereof. The
13 commission shall cause a certified copy of all such orders to be
14 delivered to an officer or agent of the municipal utility affected thereby,
15 and all such orders shall, of their own force, take effect and become
16 operative twenty (20) days after service thereof unless a different time
17 be provided in said order. Any order of the commission as may increase
18 any rate of such municipal utility shall not take effect until such
19 expenses are paid into the state treasury.

20 SECTION 17. IC 8-1-6-1 IS AMENDED TO READ AS FOLLOWS
21 [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) It is declared to be the public
22 policy of this state that in order to maintain and foster the effective
23 regulation of the public utilities, in the interests of the people of the
24 state of Indiana and the public utilities as well, the public utilities
25 subject to regulation and which enjoy the privilege of operating as
26 public utilities in this state shall bear the expense of administering the
27 provisions of ~~IC 8-1-1 and IC 8-1-2~~ **IC 8-1** by means of a public utility
28 fee on such privilege measured by the annual gross revenue of such
29 public utilities in the manner provided in this chapter. That expense
30 shall be determined by totaling the budgets, approved by the general
31 assembly in its appropriation act for the years to be billed, of the
32 commission and the utility consumer counselor, including expert
33 witness fees. The sum of two hundred fifty thousand dollars (\$250,000)
34 shall be added to that total for the use of the commission and the utility
35 consumer counselor as a contingency fund. ~~with expenditures from that~~
36 ~~fund subject to prior approval of the governor and state budget agency.~~
37 The proceeds from the public utility fee shall be paid to the
38 commission and deposited in the **commission** public utility fund
39 **account** which is hereby created in the state treasury. If the reports
40 required to be submitted to the commission under section 5 of this
41 chapter reveal that the amounts to be collected for the fiscal year from
42 the public utilities, when added together, plus the unexpended balance

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of the public utility fund account at the end of the fiscal year will exceed the total of the expenses plus the contingency fund, the commission shall compute the amount of each public utility's proportionate share of the excess sum. The commission shall, as promptly as possible, notify each public utility of the amount of its proportionate share of such excess and that amount shall be deducted from the subsequent payment of any fees imposed on such utility under section 4 of this chapter.

(b) If the sum of the actual expenditures of the commission and the utility consumer counselor are less than the appropriations therefor by the general assembly, the difference between the actual expenditures and the appropriations shall be subject to the credit provision provided in this section and each utility's proportionate share of that difference shall be deducted from the subsequent payment of any fee imposed on that utility under section 4 of this chapter.

SECTION 18. IC 8-1-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) All fees herein prescribed shall be paid into the treasury of the state of Indiana through the secretary of the commission and quietused into an account to be known as the commission public utility fund account. This account shall be used for enforcing the provisions of ~~IC 8-1-1 and IC 8-1-2~~ **IC 8-1 and IC 8-1.5** and **expenditures from the account by the commission and the consumer counselor** shall be utilized only for the purpose of funding the expenses of the commission and the consumer counselor in amounts not in excess of their respective appropriations by the general assembly, plus the contingency fund. All appropriations under this chapter paid out of the commission public utility fund account shall be subject to the ~~prior approval of the general assembly, the governor, and the state budget agency.~~ **state board of account's biennial review under IC 5-11-1-9(c).**

(b) Fees collected from:

(1) municipal utilities under IC 8-1-2-70; and

(2) municipalities under IC 8-1-2-85;

shall also be deposited in the commission public utility fund account, as if ~~they~~ **the fees** were fees collected from public utilities under this chapter.

SECTION 19. IC 8-1-6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. All sums collected by the commission under the provisions of this chapter shall be paid not less than fifteen (15) days after receipt of the same, accompanied by a detailed statement thereof to the treasurer of the state of Indiana and deposited into the public utility fund **account**.

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1 SECTION 20. IC 8-1-22.5-3 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. The division shall be
3 administered by a director who shall be employed by, and shall be
4 responsible to, the commission. ~~and, who shall meet the job and~~
5 ~~personnel requirements of the State Department of Administration.~~ The
6 director shall, with the approval of the commission, employ a staff of
7 competent full-time employees with professional and technical
8 qualifications and ability. The director, with approval of the
9 commission, may engage the services of qualified consultants as ~~he~~ **the**
10 **director** deems appropriate.

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